

TERAS CHARTERING, LLC,

Plaintiff,

v.

HYUPJIN SHIPPING CO., LTD,

Defendant.

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) CASE NO. C16-0188 RSM

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) ORDER GRANTING MOTION FOR

) ATTORNEYS' FEES

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“When it sets a fee, the district court must first determine the presumptive lodestar figure by multiplying the number of hours reasonably expended on the litigation by the reasonable hourly rate.” *Intel Corp. v. Terabyte Int’l, Inc.*, 6 F.3d 614, 622 (9th Cir. 1993). The reasonable hourly rate is determined with reference to the prevailing rates charged by attorneys of comparable skill and experience in the relevant community. *See Blum v. Stetson*, 465 U.S. 886, 895 (1984). In determining the reasonable number of hours expended on the litigation, the Court may exclude any excessive, redundant, or otherwise unnecessary hours billed. *Hensley v.*

1 *Eckerhart*, 461 U.S. 424, 434 (1983). The Court may also adjust the lodestar with reference to
2 factors set forth in *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69-70 (9th Cir. 1975). The
3 relevant Kerr factors are: (1) the time and labor required; (2) the novelty and difficulty of the
4 questions; and (3) the skill requisite to perform the legal services properly. “The lodestar amount
5 presumably reflects the novelty and complexity of the issues, the special skill and experience of
6 counsel, the quality of representation, and the results obtained from the litigation.” *Intel*, 6 F.3d
7 at 622.

9 As an initial matter, the Court notes that “[e]xcept for motions for summary judgment, if
10 a party fails to file papers in opposition to a motion, such failure may be considered by the court
11 as an admission that the motion has merit.” LCR 7(b)(2). Given the history of this matter, the
12 Court deems Plaintiff’s failure to file an opposition to be such an admission.

14 Turning to the reasonableness of the requested rates, the Court finds the rates to be
15 reasonable. Defendant seeks rates of \$265/hour for attorney Chris Nicoll, \$200/hour for attorney
16 Jeremy Jones, and \$125/hour for their paralegal. Dkt. #95 at ¶ 3. “The party seeking fees bears
17 the burden of documenting the hours expended in the litigation and must submit evidence
18 supporting . . . the rates claimed.” *Welch v. Metro. Life Ins. Co.*, 480 F.3d 942, 945-46 (9th Cir.
19 2007) (citing *Hensley*, 461 U.S. at 433). In the Ninth Circuit, “the determination of a reasonable
20 hourly rate ‘is not made by reference to the rates actually charged the prevailing party.’” *Welch*,
21 480 F.3d at 946 (quoting *Mendenhall v. Nat’l Transp. Safety Bd.*, 213 F.3d 464, 471 (9th Cir.
22 2000)). “Rather, billing rates should be established by reference to the fees that private attorneys
23 of an ability and reputation comparable to that of prevailing counsel charge their paying clients
24 for legal work of similar complexity.” *Id.* (internal quotation omitted). “Affidavits of the
25 plaintiffs’ attorney and other attorneys regarding prevailing fees in the community, and rate
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1 determinations in other cases, particularly those setting a rate for the plaintiffs' attorney, are
2 satisfactory evidence of the prevailing market rate." *United Steelworkers of Am. v. Phelps Dodge*
3 *Corp.*, 896 F.2d 403, 407 (9th Cir. 1990). "Generally, when determining a reasonable hourly
4 rate, the relevant community is the forum in which the district court sits." *Camacho v. Bridgeport*
5 *Fin., Inc.*, 523 F.3d 973, 979 (9th Cir. 2008) (vacating award of attorneys' fees in Fair Debt
6 Collection Practices Act case where district court failed to identify the relevant community or
7 address the prevailing market rate).

9 In this case, Defendant has presented evidence supporting the reasonableness of the rates
10 requested in this market. *See* Dkts. #95, #96 and #97. Given the Court's familiarity with the
11 market and the rates typically charged by experienced attorneys in these types of cases, the Court
12 finds the rates to be reasonable. The Court also notes that Plaintiff does not challenge any of the
13 rates requested by Defendant.

15 The Court now turns to the reasonableness of the hours requested. "The party seeking
16 fees bears the burden of documenting the hours expended in the litigation and must submit
17 evidence supporting" the request. *Hensley*, 461 U.S. at 433. Defendant has presented a summary
18 of the time spent defending this action, along with supporting Declarations explaining the reasons
19 that those hours were incurred, plus information regarding complications caused by the fact that
20 the parties are international. Dkts. #95 and #96. The record supports the number of hours
21 requested, and Plaintiff has declined to oppose the request. Accordingly, the Court will award
22 Defendant the total hours requested. The Court does not find it necessary to make any lodestar
23 adjustments. Defendant has sought an award of costs through a separate Bill of Costs, which
24 remains pending before the Court.

1 Having considered Defendant's Motion for Attorneys' Fees, the Declarations and
2 Exhibits in support thereof, and the remainder of the record, the Court hereby finds and ORDERS
3 that Defendant's motion (Dkt. #94) is GRANTED. Defendant Hyupjin Shipping Co., Ltd. is
4 awarded **attorneys' fees in the amount of \$254,316.00.**

5 DATED this 25th day of April 2018.
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9 RICARDO S. MARTINEZ
10 CHIEF UNITED STATES DISTRICT JUDGE
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